IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 11.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.448 of 2006

Uma Maheswari ... Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 00

2.The District Magistrate and
District Collector
Vellore Distirct,
Vellore.

3.The Inspector of Police,
Gudiyatham Town P.S.
Vellore District. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the proceedings in C3.D.O.No.47/2005 dated 22.11.2005 passed by the second respondent detaining Kubi @ Udhayakumar aged 26, son of Kuberan, now kept in Central prison, Vellore and quash the same and set the detenu at liberty.

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For Petitioner : Mr.K.Moganaraju
For Respondents : Mr.M.Babu Muthu Meeran
Additional Public Prosecutor

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O R D E R

(Order of the Court was made by V.DHANAPALAN, J.)

The petitioner, who is the wife of the detenu by name Kubi @ Udyakumar, who was detained as a 'Goonda' as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 22.11.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 02.12.2005 was received by the Government on 05.12.2005 and the remarks were called for on 06.12.2005. The reminder was sent on 15.12.2005. The representation of the detenu was received from the Government by the Collectorate on 08.12.2005 and the parawar remarks were called for from the Sponsoring authority on the same day i.e. on 08.12.2005 and the remarks were received from the sponsoring authority on 19.12.2005 and the report was sent to the Government on 20.12.2005 and the remarks were received by the Government on the same day i.e. on 20.12.2005 and thereafter, the file was also submitted on the same day i.e. on 20.12.2005 and the same was dealt with by the Under Secretary and Deputy Secretary also on the same day i.e. on 20.12.2005 and finally, the Minister for Prohibition and Excise passed orders on 21.12.2005. The rejection letter was prepared on 27.12.2005 and the same was served to the detenu on 02.01.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed order on 21.12.2005, there is no explanation at all for taking time for preparation of rejection letter till 27.12.2005. Here again, though parawar remarks were called for from the sponsoring authority on 08.12.2005, the same were received by the Collectorate only on 19.12.2005 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the two spells of delay, viz., between 21.12.2005 and 27.12.2005 as well as 08.12.2005 and 19.12.2005, are on the higher side and in the absence of proper explanation by the persons concerned, the delay has prejudiced the detenu in considering his representation. On this ground, we quash the impugned order of detention.

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4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector,
Vellore District, Vellore.

3.The Inspector of Police,
Gudiyatham Town P.S. Vellore District.

4. The Superintendent,
Central Prison, Vellore.
(In duplicate for communication to detenu)

5. The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.

6. The Public Prosecutor,
High Court, Madras.

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1 cc To Mr.K.Moganaraju, Advocate, SR.29792.

HCP. No.448 of 2006

NA(CO)
RVL 19.08.2006

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